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10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009-9

13 **MALINTHA K. LARSEN, AKA**  
14 **MALINTHA K. WINWOOD, AKA**  
**MALINTHA KELLY WINWOOD**  
15 21435 Parrot Ranch Road  
Carmel Valley, CA 93924

**A C C U S A T I O N**

16 Registered Nurse License No. 378554

17 Respondent.  
18

19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation  
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing  
23 ("Board"), Department of Consumer Affairs.

24 2. On or about August 31, 1984, the Board issued Registered Nurse License  
25 Number 378554 to Malintha Kelly Winwood, also known as Malintha K. Winwood, and  
26 Malintha K. Larsen ("Respondent"). The registered nurse license will expire on August 31,  
27 2008, unless renewed.

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1 (1) Incompetence, or gross negligence in carrying out usual certified or  
2 licensed nursing functions.

3 7. Code section 2762 states, in pertinent part:

4 In addition to other acts constituting unprofessional conduct within the  
5 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct  
6 for a person licensed under this chapter to do any of the following:

7 (a) Obtain or possess in violation of law, or prescribe, or except as  
8 directed by a licensed physician and surgeon, dentist, or podiatrist administer to  
9 himself or herself, or furnish or administer to another, any controlled substance as  
10 defined in Division 10 (commencing with Section 11000) of the Health and Safety  
11 Code or any dangerous drug or dangerous device as defined in Section 4022.

12 (e) Falsify, or make grossly incorrect, grossly inconsistent, or  
13 unintelligible entries in any hospital, patient, or other record pertaining to the  
14 substances described in subdivision (a) of this section.

15 8. Code section 4060 provides, in pertinent part,

16 No person shall possess any controlled substance, except that furnished to  
17 a person upon the prescription of a physician, dentist, podiatrist, optometrist,  
18 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
19 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
20 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant  
21 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
22 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)  
23 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

24 9. Health and Safety Code section 11173, subdivision (a), provides:

25 No person shall obtain or attempt to obtain controlled substances, or  
26 procure or attempt to procure the administration of or prescription for controlled  
27 substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the  
28 concealment of a material fact.

### REGULATORY PROVISIONS

10. California Code of Regulations, title 16 ("Regulation"), section 1442  
states:

As used in Section 2761 of the code, 'gross negligence' includes an  
extreme departure from the standard of care which, under similar circumstances,  
would have ordinarily been exercised by a competent registered nurse. Such an  
extreme departure means the repeated failure to provide nursing care as required  
or failure to provide care or to exercise ordinary precaution in a single situation  
which the nurse knew, or should have known, could have jeopardized the client's  
health or life.

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1 **COST RECOVERY**

2 11. Code section 125.3 provides, in pertinent part, that the Board may request  
3 the administrative law judge to direct a licensee found to have committed a violation or  
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
5 and enforcement of the case.

6 **DRUGS**

7 12. "**Morphine**" is a Schedule II controlled substance as designated by Health  
8 and Safety Code section 11055, subdivision (b)(1)(M), and is a dangerous drug within the  
9 meaning of Code section 4022, in that under federal law it requires a prescription.

10 13. "**Zofran**", a brand name for ondansetron, is a dangerous drug within the  
11 meaning of Business and Professions Code section 4022, in that it requires a prescription under  
12 federal law.

13 **BACKGROUND**

14 14. At all times herein mentioned, Respondent was employed as a registered  
15 nurse at Salinas Valley Memorial Healthcare System ("SVMH") in Salinas, California.

16 15. On or about April 5, 2005, while working at SVMH in the radiology  
17 department, Respondent administered Zofran to Patient A without a physician's order.

18 16. While working at SVMG, between 2001 to April 2005, Respondent  
19 diverted morphine from hospital supplies for her own use, including but not limited to,  
20 Respondent's diversion of a 10 mg. ampoule of Morphine that Respondent signed out under a  
21 patient's name in or around March 2005 or April 2005.

22 **FIRST CAUSE FOR DISCIPLINE**

23 (Gross Negligence)

24 17. Respondent's registered nurse license is subject to disciplinary action  
25 under Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on  
26 or about April 5, 2005, while working at SVMH as a registered nurse, Respondent was guilty of  
27 gross negligence as set forth above in paragraph 15, within the meaning of Regulation 1442, by  
28 administering Zofran, a dangerous drug, to a patient without a physician's order.

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1 grossly inconsistent or unintelligible entries in hospital or patient records, by signing out a 10  
2 mg. ampule of Morphine under a patient's name, and then taking the Morphine for her own use.

3 **PRAYER**

4 **WHEREFORE**, Complainant requests that a hearing be held on the matters  
5 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 6 1. Revoking or suspending registered nurse license Number 378554, issued  
7 to Malintha Kelly Winwood, also known as Malintha K. Winwood, and Malintha K. Larsen;  
8 2. Ordering Malintha Kelly Winwood, also known as Malintha K. Winwood,  
9 and Malintha K. Larsen, to pay the Board of Registered Nursing the reasonable costs of the  
10 investigation and enforcement of this case, pursuant to Code section 125.3; and,  
11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: 7/14/08

13   
14 RUTH ANN TERRY, M.P.H., R.N.  
15 Executive Officer  
16 Board of Registered Nursing  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant

20 03579110-SA2008301133  
21 Larsen.Acc.wpd  
22 baf [5/29/08]  
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